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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Report of the United Nations Mission to observe the October 2007 referendum on self-determination of Tokelau

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I. Introduction

1. On 27 June 2007, Kuresa Nasau, who is the Ulu of Tokelau (the Titular Head of Tokelau) and the Faipule of Atafu (representative of Atafu), addressed a meeting of the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples. At that meeting, he extended an invitation to the Special Committee to attend the upcoming referendum in Tokelau, which represented a formal act of self-determination on Tokelau's political future. The Administrator of Tokelau also extended the full support of New Zealand, as administering Power for Tokelau, for the Ulu's invitation during his statement to the Special Committee.

2. Following consultations, the Chair of the Special Committee appointed Ambassador Robert Aisi of Papua New Guinea to attend the referendum in Tokelau on behalf of the Special Committee. Ambassador Aisi was accompanied by Lone Jessen of the Decolonization Unit of the Department of Political Affairs. An Information Officer, Ariane Rummery, represented the Department of Public Information. The formal election monitoring team comprised Deryck Fritz of the Electoral Assistance Division of the Department of Political Affairs and Walter Rigamoto from Fiji. All were present throughout the referendum process, which took place from 20 to 24 October 2007.

II. Background

3. Since 1926, Tokelau has been a Non-Self-Governing Territory administered by New Zealand. Over the past 31 years, there have been a series of discussions and consultations, as well as ongoing experimentation with different governance and public service systems, as Tokelau grappled with the question of its future political status.[1]

4. In November 2003, Tokelau's General Fono (the national representative body) took a formal decision, by consensus and with the support of all three Village Councils, to endorse self-government in free association with New Zealand as the choice to be actively explored with the New Zealand Government. That decision was based on a recommendation of the Special Constitutional Committee, which in turn was based on extensive consultations held on each atoll earlier in that year. Agreement on the steps to be taken to give effect to this decision was reached at the General Fono held in January 2004. Preparations included a series of discussions with senior officials in both Wellington and Apia, meetings with Tokelau's constitutional adviser, Professor Tony Angelo, as well as with Tokelau's senior officials and political leadership, and a number of meetings with Tokelau's overseas communities in New Zealand, Samoa, American Samoa, Hawaii and Australia. During a visit to Tokelau in August 2004, the New Zealand Prime Minister welcomed Tokelau's decisions on its future political status and assured Tokelau of New Zealand's ongoing friendship and support as it moved towards the act of self-determination.

[1] For more information on the location, history, political, economic and social conditions of Tokelau, see the most recent working paper prepared by the Secretariat (A/AC.109/2007/11). All working papers on Tokelau can be found on the United Nations decolonization website (www.un.org/depts/dpi/decolonization/).

5. At its meeting in August 2005, the General Fono approved the text of a draft treaty of free association between Tokelau and New Zealand as the basis for an act of self-determination. It also appointed a translation committee and a referendum commission. Subsequently, in November 2005, the General Fono approved the translations of the draft constitution and draft treaty,[2] and approved the draft referendum rules. It also agreed that an overall majority of two thirds of the valid votes cast in a national poll would be required for a change in Tokelau's status and decided that the voting should take place sequentially in Apia and on the three atolls.

6. A first referendum to determine Tokelau's future status took place from 11 to 15 February 2006.[3] Sixty per cent of Tokelauan voters at that time supported the option for self-government in free association with New Zealand. However, that percentage was not sufficient to meet the required two-thirds majority and so Tokelau's status remained as before the referendum. Ambassador Robert Aisi of Papua New Guinea represented the Special Committee during the 2006 referendum. The 2006 vote was also conducted in the presence of a United Nations electoral monitoring mission, which deemed the election process credible and reflective of the will of the people of Tokelau.

III. Preparations undertaken for the holding of the referendum

7. As mentioned above, during the meeting of the General Fono in August 2005, a set of rules for the first referendum in February 2006 was enacted. According to the Rules, the referendum was to be conducted by a referendum commission. As the second referendum was held only 20 months after the first, a great deal of information on the referendum process had already been distributed to all households as well as placed on the Tokelau Government website. These initial documents included a number of fact sheets covering the following topics: "Tokelau's self-determination referendum"; "Have your say on the future of Tokelau"; "Tokelau's self-determination"; and "What will self-determination mean for Tokelau".

8. In January 2007, the three Faipule, one from each atoll, held a further series of consultations with the Tokelauan communities in Hawaii and American Samoa in order to clarify issues related to the draft constitution, the draft treaty and the referendum process. These consultations continued in February and March with the Tokelauan communities in Samoa, New Zealand and Australia.

9. In order to increase the sense of ownership of the referendum process and to gain the buy-in of the Tokelauan villagers, it was decided to establish village referendum committees that would be responsible for the design and implementation of the civic education/public awareness campaign at the village level. From 25 to 30 January 2007, a training workshop was held in Apia for the members of the village referendum committees, as well as for the issuing officers of the referendum. The village referendum committees then returned to their respective communities to develop and implement atoll-specific civic education action plans. These plans were

[2] Copies of the draft constitution and draft treaty are available on www.tokelau.org.nz.

[3] For further information, see the Special Committee report on the February 2006 Tokelau referendum, A/AC.109/2006/20.

then submitted to the village elders who approved them and encouraged the villagers to participate. The committees conducted activities such as meetings, workshops and radio programmes and reported fortnightly to the referendum project manager in Apia.

10. In July 2007, a civic education assessment was conducted on each atoll to determine the level of understanding of the population on the issues related to the overall referendum process. This assessment identified priority target groups (the 18-30 age group and mothers) and issues that needed more focus (the draft constitution and the draft treaty). Action plans were fine-tuned and civic education activities were then conducted on a weekly basis to address any deficiencies in the overall comprehension of the process.

11. In September 2007, a three-day voter education campaign covering the mechanics and logistics of the referendum was conducted on each atoll, assisted by Power Point presentations. It was during this period that colourful T-shirts with the words "Referendum 2007" printed on the back in Tokelauan, together with the booklet entitled "TOKELAU — self determination package", were distributed to members of the Tokelauan community who came to the meetings. A series of consultations were also held by the Council of Ongoing Government with the villages to further reinforce the civic education campaign.

12. Following a meeting of the Referendum Commission in Atafu on 10 June 2007, and a subsequent report to the General Fono on 12 June 2007, the Commission decided that the referendum planning would proceed on the same basis of voting as in 2006, that is, in four locations, namely on 20 October in Apia and on 22, 23 and 24 October on the atolls of Fakaofo, Nukunonu and Atafu, respectively. As in 2006, it was decided that a two-thirds majority of the valid votes cast would be required to change Tokelau's status.

IV. Pre-referendum activities of the Mission

13. On 19 October 2007, the five-person team from the United Nations was briefed on the preparations for the referendum by the Ulu, Kuresa Nasau, and the senior management team for the referendum led by the General Manager in Apia, Jovilisi Suveinakama. The team related that they felt well prepared and confident about the referendum process following extensive preparation and training. A total of 789 registered voters had been reached, a 25 per cent increase over the February 2006 referendum. That increase was attributed to the distribution of more voter information and the registration of those Tokelauans who recently had attained the voting age of 18 years, as well as the use of a mobile team to conduct additional house-to-house registration.

14. Also discussed at the meeting was the issue of overseas votes. According to the agreed Rules, Tokelauans who resided overseas were not entitled to vote unless certain criteria were met. This decision came about after substantial and significant discussion and had been finally reached at a meeting of the General Fono prior to the February 2006 referendum. The justification for the decision was that, if the vote were open to all Tokelauans irrespective of any residential requirement, not only would the referendum logistically be very difficult to organize but it could also override the voices of those who did actually reside in Tokelau. The estimated

number of Tokelauans living overseas is 12,000, while the total population of Tokelau is around 1,500.

V. Actual referendum undertakings

15. The United Nations team was present for voting on each of the four days of polling, on 20 October 2007 in Apia (for eligible Tokelauans based in Samoa), and on 22, 23 and 24 October on the atolls of Fakaofo, Nukunonu and Atafu, respectively. The polling stations were centrally located and clearly marked in all four locations. Voters were informed of the location of the polling stations in information leaflets that were distributed directly to registered voters, as well as through the Tokelau Government website. Also, village leaders were asked to inform their communities of the location in advance of the event. Leaflets, which described how to vote and provided an illustration of what the voter would expect to see on the ballot paper, were made available to voters at the entrance to each polling station. The polling stations were open from 9 a.m. to 4 p.m. at each location. At each of the four different polling locations, a ballot box for special votes (including postal votes) was taken around by issuing officers and United Nations staff to hospitals and homes of people who could not travel to the polling stations. This was done to ensure that all voters who would otherwise have been unable to do so were given the chance to vote.

VI. Result of the referendum

16. The counting of votes for all four polling locations, as well as postal ballots, was conducted immediately after the scheduled close of the poll on Atafu on 24 October 2007. It was generally considered to have been conducted in an open and transparent manner and in accordance with the procedures prescribed in the Rules. In terms of numbers, 64.4 per cent of those registered voted in favour of self-government in free association with New Zealand. However, that percentage fell just short of the two-thirds majority required to effect a change in Tokelau's status. A total of 697 voters turned out, with 446 voting in favour and 246 against. Overall voter turnout was 88 per cent. The United Nations monitoring team deemed the referendum process credible and reflective of the will of the people.

VII. Post-referendum activities and observations

17. There was much reflection on the result of the vote during a function organized by the Tokelau authorities the evening the results were announced, and during a meeting convening the General Fono the following morning. At that meeting, Ulu Kuresa Nasau, in his speech, said that the result of the referendum had come as a surprise, but that he respected and stood by the prerequisite that a two-thirds majority was needed for a change in status. The Ulu noted that Tokelau would remain on the United Nations list of Non-Self-Governing Territories, and also indicated that New Zealand would continue to work with Tokelau to further strengthen internal self-government with a view to eventual decolonization by a future vote after some years of regrouping.

18. In his speech, the Administrator, David Payton, confirmed that New Zealand respected the result of the referendum and that it would continue to discharge its obligations as administering Power. The challenge for Tokelau's leadership now was to look at the concerns of the 35 per cent of Tokelauans who had voted "no" and seek to understand their views, in an effort to unite the "Family of Tokelau". Mr. Payton also pointed out that the result of the referendum would not change Tokelau's work programme and the economic support package agreed to until the year 2010, whereby New Zealand had committed to provide financial security for Tokelau in addition to support for schools and hospitals; nor would the vote change New Zealand's ongoing commitment to Tokelau's shipping service.

19. Ambassador Robert Aisi, representing the Special Committee, assured the Tokelauans that the Special Committee fully respected the referendum vote. He recalled that the General Assembly, in its resolution 1541 (XV) of 15 December 1960, affirmed that while there were three ways in which a Non-Self-Governing Territory could attain a full measure of self-government, the important point was that the choice had to be the result of the freely expressed wish of the people. Irrespective of the result of the vote, Ambassador Aisi noted that the latter had certainly been the case with Tokelau. He pointed out that the Special Committee had long been in awe of the fact that Tokelau's small community of 1,500 people was in many respects already running their own affairs.

20. Ambassador Aisi also noted that Tokelau had held a special place on the Special Committee's agenda for many years. This fact was reflected in the Committee's five visiting missions to the atolls since the mid-1970s, the most visiting missions to any of the remaining Non-Self-Governing Territories on the United Nations list. He recalled that the Committee recognized, and had on many occasions praised, the unique and long-standing active cooperation among Tokelau, New Zealand and the Special Committee. It served as an exemplary path for other administering Powers and Non-Self-Governing Territories to follow on the way forward in efforts towards decolonization. He reiterated that the Committee had great appreciation for the large amount of work and consideration that preceded Tokelau's decision to hold the referendum. Despite the outcome of the vote, he assured all Tokelauans that the Special Committee would continue to be by their side.

VIII. Conclusions and next steps

21. Extensive dialogue and consultations have taken place on Tokelau's future status over the years, and particularly, at the national and village levels, since 2003 when the General Fono took the decision to endorse self-government in free association with New Zealand as the choice to be actively explored with the New Zealand Government. It was in the light of that decision, coupled with the apparent level of agreement from all parties concerned, especially the unanimous support of Tokelau's political leadership at all levels, that there was a marked degree of surprise expressed at the outcome of the referendum.

22. As seen above, the voting outcome revealed that 35 per cent of Tokelauans were not in favour of self-government in free association with New Zealand, and therefore in effect were at odds with the endorsed views presented by the political leadership. Given that the referendum result was expected to come out

overwhelmingly in favour of self-government, the outcome, with 35 per cent dissenting, suggests that the leadership of Tokelau must continue its efforts in order to more fully understand the priorities of the whole spectrum of Tokelau's population, both on self-determination and on other issues of concern to Tokelauans. It must also be taken into account that Tokelau, like all places, has its own internal political dynamics. The international community can be assured that the efforts put into the referendum process were not a wasted opportunity, as they have greatly enhanced the level of awareness among the people of Tokelau of all the issues as they relate to self-determination. The General Fono has indicated that the vote is seen as a step forward in a process towards self-determination and has decided that a period of reflection is needed before Tokelau decides on any possible future action. New Zealand has echoed that sentiment, recognizing that Tokelau may wish to vote on its constitutional status again after it has had the opportunity to reflect on its latest decision. In the meantime, New Zealand has assured Tokelau of its ongoing friendship and support. The challenge for Tokelau's leadership now is to consider and address, in a spirit of lessons learned, the concerns of the 35 per cent of Tokelauans who voted "no" in the referendum, so as to unite the small Tokelauan population in its future course of action.

23. The positive aspects of the process are that the referendum was conducted in a most professional manner and that participation was high. The Tokelauans were again required to focus on the status issues at hand, with an intensive level of debate and consultation.

24. In the meantime, Tokelau will remain a Non-Self-Governing Territory administered by New Zealand. Statements by all parties involved — Tokelau, New Zealand and the Special Committee — have confirmed this. New Zealand has likewise confirmed its commitment to continue to discharge its obligations as the administering Power.

IX. Acknowledgement

25. The United Nations team wishes to place on record its appreciation to the Government of New Zealand and the Council of Ongoing Government of Tokelau for the courtesies extended to the Special Committee and for the cooperative manner in which the referendum process was carried out. The team would also like to express its thanks to the Tokelau office in Apia for the hospitality and cooperation extended to it during its stay, as well as to the United Nations Development Programme office in Apia for its cooperation. Finally, the team also acknowledges and expresses its sincere gratitude for the warmth and generous hospitality extended to it by the people of Tokelau during its short stay on their beautiful islands.